

The 7th July, 1975

No. 6344-4 Lab-75/20518.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Hindustan National Glass Industries, Bahadurgarh.

**BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK**

Reference No. 87 of 1974

between

SHRI SHIV NATH PARSHAD AND THE MANAGEMENT OF M/S HINDUSTAN NATIONAL
GLASS INDUSTRIES, BAHADURGARH.

Present:

Shri Onkar Parshad for the workman.

Shri S. C. Govil for the management.

AWARD

By Order No. ID/RK/13-F-74/38541-45, dated 2nd December, 1974 of the Governor of Haryana, the following dispute between the management of M/s Hindustan National Glass Industries, Bahadurgarh and Shri Shiv Nath Parshad was referred for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947.

“Whether the termination of services of Shri Shiv Nath Parshad was justified and in order ? If not, to what relief is he entitled ?”

The parties were called upon to put in their respective pleadings. The management has raised a preliminary objections, that no demand was ever raised by Shri Shiv Nath Parshad on the management and no notice was received from the Conciliation Officer and, therefore, the reference is bad in law. The following issues arose for determination.

1. Whether the workman concerned had first raised the demand on the management and the same had been rejected before the matter was taken up for conciliation ? If not, to what effect ?
2. Whether the present reference is bad in law [for the reasons given in the preliminary objections of the written statement ?

Shri Onkar Parshad authorised representative of the workman has come into the witness-box and proved 4 documents, copy of the demand notice, dated 29th April, 1974 given to the management as well as the Contractor Shri Panday Exhibit W. 1, certificate of posting Exhibit W. 2, demand notice, dated 14th May, 1974 addressed to the management as well as to the Contractor Shri Panday Exhibit W. 3 which forms part of the reference and notice of conciliation proceedings given by the Conciliation Officer to Shri Panday Contractor of the Company Exhibit W. 4. He has stated that the Conciliation Officer had given notice of conciliation proceedings only to the Contractor Shri Panday who had not shown any willingness to take the workman back on duty and that no notice of conciliation was given to the management.

On the other hand, Shri S. C. Govil, Personnel Officer of the management and Shri D. N. Sharma, Time Office Incharge have made their statements as M. W. 1 and M. W. 2. According to them Shri Shiv Nath Parshad workman concerned was never in the employment of the Company nor did he ever give any demand notice to the management and that even the Conciliation Officer did not give notice of conciliation to the management. They have not denied that Shri Panday was a Contractor of the Company and was running his business in the name of M/s V. K. & Company. It has not been admitted that the said Contractor had his office in the factory premises. A copy of the agreement dated 18th January, 1971 executed by the management in favour of the said Contractor has also been placed on record.

The case has been argued on both sides and I have given due consideration to the facts on record.

As already observed, the case of the management is that Shri Shiv Nath Parshad workman concerned was never in its employment and no documentary or oral evidence has been adduced by the

workman that he was infact, employed by the management. According to his own showing he was engaged by the Contractor Shri Panday who was carrying on his business in the name of M/s V.K. & Company Labour Contractor, Bahadurgarh. On his demand notice, the Conciliation Officer gave notice of the conciliation proceedings to Shri Panday Contractor only and not to the management. These facts taken together lead to the conclusion that Shri Shiv Nath Parshad, infact, believed himself to be a workman of the Contractor and not of the Company and so did the Conciliation Officer as otherwise, he was bound to give notice of the conciliation proceedings to the management of the Company also. The agreement executed between the management and the Contractor (M/s. V. K. & Company Labour Contractor, Bahadurgarh) dated 18th January, 1971 of which copy has been placed on record does not throw any light on the matter in issue. It is all together silent about the labour to be engaged by the Contractor to carry out the contract work assigned to him by means of this agreement and there is not a word mentioned in this agreement that the labour or the workers engaged by the Contractor would be treated as the employees or the workmen of the Company. In any case, the management had no opportunity to take part in the conciliation proceedings and put its case before the Conciliation Officer. The failure report of the Conciliation Officer has not been placed on the record by the workman concerned. The question of any such report having been forwarded to the management, in the circumstances, does not arise. The Contractor (M/s. V. K. & Company) is not a party to the present reference. He could not, therefore, be called upon to file the report or the copy of the proceedings which should have been sent to him by the Conciliation Officer, if he had participated in the proceedings.

In the light of the facts of the case stated above which are more or less admitted, it can not be said that any industrial dispute existed between Shri Shiv Nath Parshad and the management of M/s Hindustan National Glass Industries, Bahadurgarh against whom the present reference is apparently bad in law. The remedy of the workman, if any, was against the Contractor Shri Panday (M/s V. K. & Company, Labour Contractor, Bahadurgarh) to whom the notice of conciliation had been given by the Conciliation Officer and if any dispute existed between him and the workman the reference of the same for adjudication to this court should have been made against the said Contractor. No request for impleading the Contractor as a party to the reference has been made.

So, for the reasons aforesaid, the preliminary issues involved are decided against the workman and in favour of the respondent management of M/s Hindustan National Glass Industries, Bahadurgarh holding that the reference in the present form can not proceed and the same shall stand rejected as being bad in law. The award is accordingly made against the workman. He may seek his remedy by approaching the Government for the reference of the dispute for adjudication against his real employer, if advised. There shall be no order as to costs.

Dated the 23rd June, 1975.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1547, dated 25th June, 1975

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 6140-4Lab-75/20524.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s The Panipat Co-operative Distillery Ltd., Panipat (Karnal) :—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD
Reference No. 102 of 1972 and 10 of 1974
between

THE WORKMEN AND THE MANAGEMENT OF M/S THE PANIPAT CO-OPERATIVE DISTILLERY LTD., PANIPAT (KARNAL)

Present.—

Shri Gian Chand, for the workman.

Shri Surnde Kaushal, for the management.

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AWARD

The workmen of M/s Panipat Co-operative Distillery Ltd., Panipat (Karnal) raised certain demands regarding grant of Seasonal Uniform, linkage of dearness allowance with the costs of living index, revision of their wages, construction of cycle stand in the factory premises. Besides there were demands of 4 individual workers, namely, Sarvshri Dharam Pal, Ishwar Singh, Prem Kumar and Raj Kumar for their proper designation. The management did not accept these demands. This gave rise to industrial disputes which were referred for adjudication to this Tribunal by the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 and registered as Reference No. 102 of 1972 and Reference No. 10 of 1974 with the following terms of reference.

- (i) Reference No. 102 of 1972,—*vide* order No. ID/KNL/169-A-72/42616, dated 8th December, 1972.

Terms of reference :

- (1) Whether the wages of the workers should be revised ? If so, with what details ?
 - (2) Whether the Management should construct cycle stand in the factory premises and appoint a Chowkidar for the safety of the cycles ? If so, with what details ?
 - (3) Whether Shri Dharam Pal Pathak worker is entitled to be designated as Bottling Supervisor ? If so, with what details ?
- (ii) Reference No. 10 of 1974,—*vide* order No. ID/KNL/169-F-73/4305, dated 20th February, 1974.

Terms of reference :

- (1) Whether the workmen should be entitled to the grant of seasonal uniform ? If so, with what details ?
- (2) Whether the workmen should be entitled D.A. linked with cost of living Index Number ? If so, with what details ?
- (3) Whether the following workers should be designated according to the work done by them and paid as such ? If so, with what details ?
 - (1) Shri Ishwar Singh.
 - (2) Shri Prem Kumar.
 - (3) Shri Raj Kumar.

Whether Shri Jagdish, Store Clerk should be given the benefits of the Sugar Wage Board ? If so, with what details ?

On receipt of the reference orders usual notices were given to the parties and they put in their respective pleadings. A settlement has, however, been brought about between the parties with regard to most of the demands. The workmen concerned had agreed to abide by the decision of the General Manager of the Panipat Co-operative Sugar Mills, Panipat with regard to their demands,—*vide* their representation Exhibit M. 1 which is signed or thumb marked by them. The General Manager of the Sugar Mills has given his decision,—*vide* Exhibit M. 2 and Exhibit M. 3. Exhibit M. 2 provides the supply of Uniform to the different categories of the workers, as per details given below :—

S. No.	Category of workers	Pattern of uniforms to be provided
1.	Security Officer	One pair of shoes, a cap and two pairs of terricot pants and bushirts of Khaki colour every year. One woollen coat and a pant after every three winter seasons.
2.	Watchmen, Sweepers and Peons	One pair of shoes, one cap, two pants and two bushirts of cotton Khaki Colour cloth every year. One woollen coat and a pant after every three winter seasons.
3.	Fitters, Electrician, Yeastman, Stillmen, Welder, Helpers to Fitters/Welder/Electrician, Fireman/Boiler Coolies, Pumpmen, Store Boys and Attts, working in Bottling Houses of both country liquor an I.M.E.S., Lab. Boys and Gardeners.	One pair of shoes and two pairs of Khaki colour cotton cloth pants and bushirts every year.

(Note.—The Electrician and his Helper will be provided rubber sole shoes, being Shock-Proof ones, in addition to other safety devices).

Other conditions—

- (1) The uniforms to the workers will be provided on the above pattern on the basis of accounting year. One pair of cotton uniform will be issued in July and the other in January every year.
- (2) If a worker for any reason remains away from service for three months or so, the uniform for the respective half year will be deemed to have lapsed.
- (3) The uniforms will be provided to those workers of each category mentioned above who are appointed in the distillery on permanent basis. No uniform will, however, be provided to a worker during the period of his probation.
- (4) The workers provided with uniforms will be required to wear the uniforms while coming to duty. In case persistent default is noticed in any case, the security Officer will have the right to refuse entry of the workman to the factory and have him marked absent from duty. The management also reserves the right to withdraw the concession/amenity provided to the workers in such cases.
- (5) The workers provided with the uniforms will be entitled to get washing charges @ Rs. 3/- per month.

Exhibit M. 3 provides the *ad hoc* relief in the wages of the workers as given below :—

It is hereby ordered that the following categories of graded/monthly roll workers of our Distillery shall receive, in addition to their existing emoluments, further *ad hoc* relief to the extent noted against each subject to the provisions of the Additional Emoluments (Compulsory Deposits) Act, 1974 :—

<i>S. No.</i>	<i>Category of workers</i>	<i>Adhoc Relief</i>
1.	Un-skilled	{ (i) @ Rs. 29.90 P. P.M. for the period from 1st July to 30th September, 1974.
2.	Semi-skilled	{ (ii) @ Rs. 46.15 P. P.M. (inclusive of Rs. 60.90 P. effective from 1st July, 1974) onward from 1st October, 1974.
3.	Skilled/Clerical falling in the grade of Rs. 125.7-1/2-200.	

The payment of arrears to the workers be made according to the rules enforce.

The workers have given up their demand for the construction of cycle stand in the factory. Sarvshri Ishwar Singh Bottling Supervisor and Duli Chand Bottling Attendant who have proved the representation of the workman concerned to the General Manager Exhibit M. 1 have sworn testimony to the fact that in addition to the uniforms and the *ad hoc* relief in wages they are also getting house rent for which they had not raised any dispute. Shri Surinder Kaushal, authorised representative of the management has stated that the decision of the General Manager on the demands of the workmen is being implemented and benefits arising there from are being given to the workmen concerned.

From the statement of Shri Surinder Kaushal, it is further clear that Shri Dharam Pal whose demand for being designated as Bottling Supervisor is covered by item No. 3 of reference No. 102 of 1972 has already been dismissed from service and is no longer a workman in the Distillery and that he has also raised a demand challenging the order of his dismissal from service.

So far as Shri Jagdish, Store Clerk whose demand is covered by item No. 3 of reference No. 10 of 1974 is concerned, it has been stated in the statement of claim filed in the case that he has no dispute with the management.

That disposes of all the three demands covered by item Nos. 1, 2 and 3 of reference No. 102 of 1972 and item Nos. 1 and 2 of reference No. 10 of 1974 as also the demands of Shri Jagdish, Store Clerk item No. 3 of reference No. 10 of 1974.

The parties are agreed that no settlement has yet been brought about between Sarvshri Ishwar Singh, Prem Kumar, Raj Kumar covered by item No. 3 of Reference No. 10 of 1974 and their case has, therefore, to proceed for adjudication of their demand.

In view of the above, a joint award is made in reference No. 102 of 1972 and reference No. 10 of 1974 holding that the workman concerned shall be bound by the decision given by the General Manager of the Panipat Co-operative Sugar Mills, Panipat,—*vide* Exhibit M. 2 and M. 3 referred to above, and the

management shall fully implement these decisions. The workmen will not be entitled to any other relief. Shri Dharam Pal workman concerned in reference No. 102 of 1972 having already been dismissed from service and being no longer a workman in the Distillery and he having further raised a dispute challenging the order of his dismissal from service, the question of his being designated as Bottling Supervisor does not arise. Similarly Shri Jagdish one of the workmen covered by item No. 3 of reference No. 10 of 1974 having admittedly no dispute with the management is not entitled to any relief what-so-ever. In the circumstances, I shall make no order as to costs. Reference No. 10 of 1974 shall proceed further for the adjudication of the demands of Sarvshri Ishwar Singh, Prem Kumar and Raj Kumar, covered by item No. 3 and will come up for the evidence of the parties on 22nd August, 1975 at Panipat.

Dated 17th June, 1975.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 947, dated 17th June, 1975

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 17th June, 1975

O.P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 6345-4Lab-75/20529.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court Rohtak, in respect of the dispute between the workman and the management of M/s Panipat Cooperative Distillery, Panipat:—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 9 of 1973

between

SHRI TILTOO AND THE MANAGEMENT OF M/S PANIPAT CO-OPERATIVE
DISTILLARY, PANIPAT.

Present:—

Shri Onkar Parshad, for the workman.

Shri Surinder Kaushal, for the management.

AWARD

Shri Tilttoo workman concerned was in the service of M/s Panipat Co-operative Distillary, Panipat. The following dispute between him and the management was referred for adjudication to this court,—vide order No. ID/KNL/169-B-73/10102-4, dated 12th March, 1973 of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947.

“Whether the termination of Services of Shri Tilttoo was justified and in order? If not, to what relief is he entitled?”

The parties were called upon to put in their respective pleadings. The management contested the claim of the workman contending inter alia that no person by the name of Tilttoo was ever in its service. This defect was conceded on behalf of the workman concerned and on his request the State

Government was pleased to make the necessary amendment in the order of reference by giving his name Tiltoo,—*vide* order No. ID/KNL/169-B-73/39168-70, dated 20th September, 1973.

From the pleadings of the parties, the following issues arose for determination in the case:—

- (1) Whether the reference in the present form is bad in law?
- (2) Whether Shri Tiltoo was not in the service of the management on 14th October, 1972 when he is alleged to have been dismissed from service. If so, with what effect?
- (3) Whether the termination of services of Shri Tiltoo was justified and in order? If not, to what relief is he entitled?

The management has examined one witness Shri Chander Parkash, Time Keeper, who has deposed on the basis of the entries in the relevant registers that Shri Tiltoo had worked on casual basis till 13th October, 1972 for intermittent periods, having joined for the first time on 15th November, 1971. He has also proved statements showing the strength of the workers in the Distillery and their wages Exhibits M. W. 1/1 and M. W. 1/2. On the other hand, the workman has made his own statement that he had been in the service of the management even before 1971 and was getting Rs. 125/- P.M. when his services were terminated. He has further stated that he had made a complaint to the Union who had given the demand notice on the basis of which the present reference has been made on receipt of the failure report from the Conciliation Officer.

The case has been argued on both sides and I have very carefully gone through the facts on record and given due consideration to the contentions raised by the learned representatives of the parties.

Issue No. 1:—

There is not much to discuss with regard to this issue. In the demand notice leading to the reference the workman had given his name as Tiltoo but by some clerical mistake his name was mentioned as Rilttoo in the order of reference. The mistake has, however, been rectified by a subsequent notification issued by the Government and the name of the workman has been correctly given. The State Government was fully competent to rectify this mistake, in the order of reference which was apparently due to clerical error. The issue is accordingly decided in favour of the workman and against the management.

Issues Nos. 2 & 3:—

These issues are more or less inter-connected and may safely be takyn up together. The case of the present workman as given in the demand notice is that his services were terminated on 14th October, 1972 without any notice, charge-sheet or enquiry. The management, on the other hand, contended that he was only a casual worker and had never been in service after 13th October, 1972 and as such the question of the termination of services on 14th October, 1972 did not arise. After a careful scrutiny of the evidence produced on both sides, I find that the contention raised on behalf of the management is not without substance. In the relevant registers Shri Tiltoo has been shown as a casual worker who came to work in the Distillery for intermittent periods, as and when required taking into consideration the requirements of the work. The management has filed statements showing the strength of the workers and the wages paid to them,—*vide* Exhibits M. W. 1/1 and M. W. 1/2. Shri Tiltoo has not been able to refute the plea of the management that he never worked in the Distillery after 13th October, 1972, the burden was on him to establish this fact by bringing on record cogent and convincing evidence especially when the management had taken the specific plea that he was not in service on the relevant date 14th October, 1972. But he has failed to discharge this burden. His bald statement without any corroborated evidence is not sufficient to discharge the burden which lay heavily upon him. He has simply shewn his ignorance to the question put to him in cross-examination that he had been for the first time joined servle on 15th December, 1971 although in the same breath he has stated that he had been in service before April, 1971 also. In re-examination, he has stated that the management used to cause break in his service from time to time. In his examination in chief, he has stated that he did not know the reason why the management had terminated his services and in the same breath he has stated that another person had been appointed in his place but he could not disclose his name. His statement read as a whole does not at all indicate that the management had been actuated by any malafide intention in removing this workman from service. There is manifestly no reason to disbelieve the sworn testimony of Shri Chander Parkash, Time Keeper which is based on documentary evidence.

It would thus appear that Shri Tiltoo was only a casual worker and his services were engaged by the management for intermittent periods only according to the requirements of the work in the Distillery and he had no lien on any particular job. He has failed to prove conclusively that he was in service after 13th October, 1972 and that being so the question of the termination of his services by the management on 14th October, 1972 did not arise. According to the entries in the registers b

he had received the wages for the days he actually worked and when his services were no longer required he was shown as paid off from time to time. He had never raised any dispute earlier and has not been able to make out of well-founded claim for reinstatement. The issues are decided against him and in favour of the management.

The award is accordingly made against the workman holding that he is not entitled to any relief by way of reinstatement or payment of back dues. No order as to costs.

Dated the 23rd June, 1975.

O. P. SHARMA,

Presiding Officer,

Labour Court, Haryana,
Rohtak.

No. 1546, dated the 25th June, 1975

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947 :—

O. P. SHARMA,

Presiding Officer,

Labour Court, Haryana,
Rohtak.

No. 6346-4Lab-75/20531.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Escorts Ltd., Plant I, Mathura Road, Faridabad:—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA.
ROHTAK

Reference No. 138 of 1972

between

SHRI SULKHAN SINGH AND THE MANAGEMENT OF M/S ESCORTS LTD., PLANT I,
MATHURA ROAD, FARIDABAD

Present:

Shri Onkar Parshad for the workman.

Shri S. S. Sethi for the management.

AWARD

Shri Sulkhan Singh workman concerned was in the service of M/s Escorts Ltd., Plant I, Mathura Road, Faridabad as a Lift Operator since 3rd May, 1967. He was dismissed from service on 11th November, 1970. Feeling aggrieved, he raised a demand for reinstatement but without success. This gave rise to an industrial dispute and conciliation proceedings were initiated on his demand notice dated 2nd December, 1971 which also ended in failure.

On receipt of the failure report from the Conciliation Officer the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred the dispute for adjudication to this court,—*vide* order No. ID/FD/205-N-72/11923-27, dated 10th April, 1972, with the following term of reference:—

“Whether the dismissal of Shri Sulkhan Singh was justified and in order? if not, to what relief is he entitled?”

The parties put in their respective pleadings. Shri Sulkhan Singh reiterated his claim for reinstatement and payment of back wages as raised through the demand notice leading to the reference. The management, on the other hand, pleaded that he was guilty of serious charges of misconduct which were duly proved in a just and proper domestic enquiry conducted against him and that being so, the management was perfectly justified in dismissing him from service.

This issue that arose for determination from the pleadings of the parties in the case was precisely the same as per the term of reference stated above.

The management has relied upon the enquiry proceedings which have been placed on record alongwith the documents relating thereto. Shri K. K. Khullar authorised representative of the management has tendered these documents in evidence which are Exhibit M. 1 to M. 25. The Enquiry Officer Shri K. S. Jain has also been examined as M. W. 2. Shri Sulkhan Singh workman concerned has made his own statement. Shri Onkar Parshad authorised representative of the workman has also come into the witness-box and proved a complaint dated 1st May, 1971 Exhibit W. 1 alleged to have been made by the workman to the Personnel Manager of the management with copy to the Labour Inspector. The management had objected to the production of this document as being not admissible. Shri Mool Chand, Dealing Clerk of the Labour Inspector examined as W. W. 2 has also denied receipt of the copy of any such complaint in that office. The then Personnel Officer of the management Shri S. C. Vohra has also denied having received any such complaint.

The case has been argued at length on both side and I have given a careful and considered thought to the facts on record and the contentions raised by the learned representatives of the parties.

As already pointed out, Shri Sulkhan Singh workman was dismissed from service allegedly on charges of misconduct and after holding domestic enquiry. The law is well settled. The question of the vires of the enquiry has to be decided first. A perusal of the enquiry record would show that Shri Sulkhan Singh was given the charge-sheet Exhibit M. 3 on 22nd June, 1971, that on 21st June, 1971 at about 8.30 A. M. he was asked by his Incharge Shri Nand Lal Bhatia, Assistant Foreman to work on the Electric Fork Lift as the Diesel Fork Lift operated by him was out of order and was under repair in the Maintenance Department but, he had straight away refused to comply with his orders and used abusive and objectionable words against Shri Nand Lal Bhatia, Assistant Foreman. It was further alleged in the said charge-sheet that on the same afternoon at about 3.30 P. M. when he was again asked by the Assistant Foreman to work on the Electric Fork Lift, he had disobeyed the order and mis-behaved towards his incharge by using filthy language. He was required to submit his explanation with regard to the above acts on his part which amounted to misconduct as defined in the certified Standing Orders of the Company. The explanation was submitted by him which was, however, found to be not satisfactory and an enquiry was ordered against him by appointing Shri K. S. Jain as the Enquiry Officer. Shri Jain held the enquiry after due notice to Shri Sulkhan Singh who had participated in the enquiry assisted by 2 co-workers. He had cross-examined the witnesses of the management and examined 3 witnesses in defence including himself.

After considering the evidence produced before him on both sides, the Enquiry Officer submitted his report on 2nd October, 1971 alongwith the relevant documents finding Shri Sulkhan Singh guilty of the aforesaid charges. On the findings of guilty given by the Enquiry Officer, the management did not consider Shri Sulkhan Singh to be kept in service and consequently passed the impugned order of his dismissal from service.

Now the question which is of vital importance and arises for determination in the case is whether the enquiry alleged to have been conducted against the workman concerned was a just and proper enquiry or any principles of natural justice had been violated by the Enquiry Officer to vitiate the same. The answer is not difficult to find. A careful and close scrutiny of the entire evidence on record leads to the conclusion that the enquiry had been held by Shri K. S. Jain M. W. 2 in a just, proper and impartial manner by giving the workmen concerned full opportunity to defend himself. There is nothing on the record to indicate that the Enquiry Officer was in any way biased or had any ill-will against the present workman. The enquiry was adjourned from time to time to facilitate the workmen in obtaining the assistance of the co-workmen S/shri Moti Ram and C.K. Salwan. On his request the enquiry proceedings were recorded in Hindi and he was also supplied with copies of the proceedings. He had signed the enquiry proceedings on each and every page alongwith his co-workers on the date or dates they had appeared in the enquiry. The management had even changed the shift of Shri C. K. Salwan, by putting him in day duty to enable him to take part in the enquiry proceedings and assist Shri Sulkhan Singh.

So, taking into consideration all the facts discussed above together, I fail to understand as to how the enquiry is vitiated or what principles of natural justice had been violated by the Enquiry Officer in conducting the enquiry against the present workman.

The learned representative of the workmen has drawn my attention to a document Exhibit W. 1 which purports to be a complaint made by Shri Sulkhan Singh to the Personnel Manager to the effect that Shri S.K. Bhandari, Incharge Progress Department wanted to victimise him and threatened him that he would get him entangled in some theft case. Shri S.C. Vohra the then Personnel Manager and Shri Mool Chand, Clerk concerned have denied the receipt of any such complaint or its entry in the relevant register. I do not see any reason to disbelieve their testimony.

The learned representative of the workmen has further argued that the alleged acts of disobedience or insubordination, as per the charge-sheet Exhibit M.3 do not constitute mis-conduct. According to him, the mis-conduct, if any committed by the workman in the morning had been condoned by the management when he was again asked to work on the Diesel Fork Lift in the afternoon. The contentions are not warranted by the facts on record and are without substance. A perusal of the charge-sheet Exhibit M. 3 would show that Shri Sulkhan Singh had not only disobeyed the orders of his Incharge (Assistant Foreman Shri Nand Lal Bhatia) but also used filthy, objectionable and threatening language against him. These acts on his part do constitute serious mis-conduct as defined in order No. 21 (i), 21 (xvi) and 21 (xxiv) of the Certified Standing Orders of the Company which form part of the record. The learned representative of the workmen has next argued that the Enquiry Officer had erred in believing the testimony of the witnesses of the management and by discarding the evidence produced by the workman. According to him, the witnesses of the management were inclinal towards the workman. No such plea has been taken in the demand notice or in the statement of claim. Moreover, both the witnesses examined by the management besides Shri Nand Lal Bhatia, Assistant Foreman complainant in the case had fully supported the above version of the management. By no stretch of imagination the finding of the Enquiry Officer could not held to be perverse. I see absolutely no ground to interfere with the findings of the Enquiry Officer or the appreciation of the evidence produced before him on both sides.

All the facts taken together, as discussed above lead to the irresistible conclusion that the enquiry had been held in a just and proper manner by affording full opportunity to the workman to cross-examine the witnesses of the management and lead his own defence as he liked, that no principle of natural justice had been violated by the Enquiry Officer in holding the enquiry, that the management had not been actuated by any malafide intention in taking the impugned action against the workman, that the acts alleged to have been committed by the workman did constitute serious misconduct of disobedience and disorderly behaviour towards his senior officer, as stated above, that the allegations levelled against the workman had been duly established against him by independent and convincing evidence. In the circumstances, the management was perfectly justified in dispensing with the services of the present workman and taking into consideration the nature of the misconduct committed by him, the punishment awarded can not be said to be excessive or not commensurate with the guilt.

The issue involved is therefore, decided against the workman and his dismissal from service is held to be justified and in order. In the result, he is not entitled to any relief by way of reinstatement or payment of back dues. The award is made accordingly. There shall, however, be no order as to costs.

O. P. SHARMA,

Dated 23rd June, 1975.

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1544, dated the 25th June, 1975

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak

No. 6347-4Lab-75/20533.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Haryana State Electricity Board, Chandigarh.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA
ROHTAK

Reference No. 53 of 1973

between

SHRI NAND KISHORE AND THE MANAGEMENT OF HARYANA STATE ELECTRICITY
BOARD, CHANDIGARH THROUGH THE EXECUTIVE ENGINEER, CITY DIVISION, PANIPAT.

Present—

Shri Onkar Parshad, for the workman.

Shri Chanchal Singh, for the management.

AWARD

The following dispute between the management of Haryana State Electricity Board, Chandigarh through the Executive Engineer, City Division, Panipat and Shri Nand Kishore claimant was referred for adjudication to this court,—*vide* order No. ID/KNL/4-A-72/33261-65, dated 20th July, 1973, of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947.

"Whether the termination of services of Shri Nand Kishore was justified and in order? If not, to what relief is he entitled?"

On receipt of the order of reference, the parties were called upon to put in their respective pleadings. The management contested the claim of Shri Nand Kishore that he was not a workman as defined under Section 2-S of the Industrial Disputes Act, 1947. It was urged that he was only working against a labour contract for a particular job and was free to offer himself for work or abandon the same. It was further contended that he had worked as T/Mate from 8th February, 1972 to 20th February, 1972 only on work-charged basis and his appointment being of a merely temporary nature, the same was terminable with or without notice as per the policy, practice and the procedure of the Haryana State Electricity Board. In the circumstances, he was not entitled to claim the status of a regular worker and was estopped from doing so by his own conduct.

Shri Nand Kishore on the other hand, claimed that he had been working regularly since 15th February, 1969, and he had been brought under retrenchment without any notice and payment of retrenchment compensation on 11th February, 1972, and as such he was entitled to reinstatement and payment of full back wages.

The following issues arose for determination in the case.

1. Whether Shri Nand Kishore was not a workman as defined under the Industrial Disputes Act, 1947? If so; with what effect?
2. Whether the termination of services of Shri Nand Kishore was justified and in order? If not, to what relief is he entitled?

The management has examined 2 witnesses, namely, Shri R.K. Verma, Assistant Engineer, Enforcement, Haryana State Electricity Board, Chandigarh M.W. 1 and Shri O.P. Kakar, Executive Engineer (Leave reserve) Bhakra House. Reliance has further been placed upon a number of documents including statements showing payment of bonus to Shri Nand Kishore from December, 1969 to 31st March, 1970 Exhibit M. W. 1/1 to M. W. 1/2, pay bills of the work-charged establishment containing the name of Shri Nand Kishore Exhibits M. W. 1/3 to M. W. 1/6, copy of the memo, dated 12th January, 1972 addressed by the Chief Engineer Operation, Chandigarh to the Executive Engineers and others concerned to the effect that steel being already in shortage, it should be conserved to its maximum. Exhibit M. W. 1/7 and copy of the another memo, dated 11th January, 1972 from the S. D. O. (Central Stores), Haryana State Electricity Board, Panipat to the Executive Engineer, City Division, Panipat that the material required for the manufacturing of BC poles was not available Exhibit M. W. 1/8.

The workman has made his own statement and produced three documents, the letter, dated 11th February, 1972 dispensing with his services forth-with Exhibit W. 1, memo dated 3rd February, 1972 addressed to Shri Nand Kishore regarding certain irregularities committed by him, Exhibit W. 2 and statement showing increments earned by Shri Nand Kishore w.e.f. 1st September, 1971, Exhibit W. 3.

The case has been fully argued on both sides and I have given due consideration to the contentions of the learned representative of the parties. From the evidence produced on both sides, it is clear that Shri Nand Kishore had received wages and bonus as also increments during the period

of his service with the management from December, 1969 to 11th February, 1972 when his services were dispensed with as being no longer required. In the circumstances, it could not be said that he was not a workman as defined under section 2-S of the Industrial Disputes Act, 1947. The issue No. 1 is accordingly decided against the management.

Issue No. 2

This issue relates to the merits of the case. From the documentary evidence led by the management read with the statements of M. W. 1 and M. W. 2 it is clear beyond any shadow of doubt that Shri Nand Kishore had been engaged and worked throughout on work-charged basis. It is further clear that the workshop where Shri Nand Kishore was working as a T/Mate had been started only on experimental basis and it had to be closed due to non-availability of the necessary material, with the result, that the services of most of the workmen engaged had to be dispensed with gradually excepting one Line Superintendent who belonged to permanent cadre and some others who were transferred to other Divisions. Taking into consideration the nature of the appointment of Shri Nand Kishore as a work-charged employee and the fact that the workshop which had been started only on experimental basis had to be closed due to unavoidable reasons the management was perfectly justified in terminating his services which were no longer required.

In the replication filed on behalf of the workman, it has been urged that he had been brought under retrenchment without payment of the retrenchment compensation. In the demand notice leading to the reference no plea of retrenchment or violation of the provisions of the law relating to retrenchment, as laid down under section 25F of the Industrial Disputes Act, 1947, has been raised. Even if it be assumed for the sake of arguments that the grievance of the present claimant was against his illegal retrenchment in disregard of the relevant provisions of the law. This court can not go into the question of the validity or otherwise of the retrenchment since this is a matter within the competence of the Industrial Tribunal, as per Schedule III of the Industrial Disputes Act, 1947 and the reference of the dispute in this behalf, if any, should have been made to the Industrial Tribunal.

So, on the facts established and for the reasons aforesaid, issue No. 2 is decided against the workmen holding the order of the termination of his services to be justified and in order and, in the result, he is not entitled to any relief by way of reinstatement or payment of back dues. The award is made accordingly but without any order as to costs.

O. P. SHARMA,

Dated 19th June, 1975.

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1543, dated the 25th June, 1975.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 6206-4Lab-75/20537.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Hissar Textile Mills, Hissar.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 66 of 1972

between

SHRI CHAMAN LAL AND THE MANAGEMENT OF M/S HISSAR TEXTILE MILLS, HISSAR

Present : []

Shri Tek Chand Gupta, for the workmen.

Shri N. K. Garg, for the management.

AWARD

Sarvshri Chaman Lal and Om Parkash were in the service of M/s Hissar Textile Mills, Hissar. The following disputes between them and the management were referred for adjudication to this Court by the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, which were registered as references Nos. 66 and 97 of 1972, respectively, the terms of reference being given as under :—

1. Reference No. 66 of 1972,—*vide* order No. ID/HSR/29-A-71/5893, dated 18th February, 1972.

“Whether the termination of services of Shri Chaman Lal was justified and in order ? If not, to what relief is he entitled ?”

2. Reference No. 97 of 1972,—*vide* order No. ID/HSR/29-B-72-9468, dated 14th March, 1972.

“Whether the termination of services of Shri Om Parkash was justified and in order ? If not, to what relief is he entitled ?”

The parties put in their respective pleadings in both the cases giving rise to the following issues.

Reference No 66 of 1972 pertaining to Shri Chaman Lal workman.

1. Whether the reference is invalid because the workman did not refer a dispute to the Screening Committee before making a demand ?
2. Whether the workman automatically lost his lien on his post because of his continuous absence from work for more than 8 days ?
3. If issue No. 2 is found in favour of the management, whether the order of reference is valid ?

Reference No. 97 of 1972 pertaining to Shri Om Parkash workman.

1. Whether the reference is invalid because it is not covered by section 2-A of the Industrial Disputes Act ?
2. Whether the reference is barred by reason of settlement, dated 4th April, 1966 ?
3. Whether the applicant is deemed to have ceased in the service of the respondent under the provision of para 30 of the Certified Standing Orders because he was continuously absent for more than 8 days after 9th September, 1970 ?
4. If the above issue are found in favour of the applicant, whether the termination of his services was justified and in order? If not, to what relief is he entitled ?

After some evidence had been led by the parties, the references were consolidated on their request to avoid duplication of work since some common questions of law and fact were involved in both the cases. The evidence relied upon by the parties is both, oral as well as documentary. The workman besides themselves coming into the witnesses-box have examined 4 witnesses, namely, S/Shri O. P. Mishra, Clerk, Labour Officer, Hissar Textile Mills, Hissar, Vishva Nath Tiwari a worker of the Hissar Textile Mills, Hissar, Shri Richhpal Singh, General Secretary and Shri Tek Chand Gupta, Secretary of District Textile Workers Union, Hissar. The management has examined Shri J. P. Sangal, Industrial Relations Officer of the Mills and Shri Shish Ram the than S. H. O., Hissar.

The documentary evidence relied upon by the management consists of copy of the settlement, dated 4th April, 1966, copy of another settlement, dated 2nd November, 1970, Exs. M. 1 and M. 2 which were brought about between the management and the workmen in conciliation proceedings under section 12(3) of the Industrial Disputes Act, 1947, copy of the Certified Standing Orders of the Mills Ex. M. 3, copy of still another settlement, dated 26th April, 1961, under section 12(3) of the Industrial Disputes Act Ex. M. 4, copy of the F. I. R. No. 29, dated 8th September, 1970, mark 'A' and the report of Shri Shish Ram S. H. O. of the same date Ex. M. W. 2/1.

On the other hand, the workman have brought on record 6 documents, namely, application dated 18th January, 1971 of Shri Chaman Lal Ex. W. 1, abstracts from the attendance registers Exs. W.W.1/1, W.W. 1/2, copy of the proceedings of the meeting held by the office bearers of the Union on 19th March, 1970 Ex. W.W. 4/1, copy of the application written by Shri Surat Singh to the management on 15th November, 1971 Ex. W.W. 5/1, and copy of the judgement of the Additional Sessions Judge, Hissar, in sessions case No. 29/96 of 1971 Ex. MX.

Arguments have been addressed on both sides and I have given very careful and considered thought to the material on record and the contentions of the learned representatives of the parties.

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As would be clear from the perusal of the evidence on record, the statement of Shri Shish Ram, S.H.O, M.W.2 read with the copy of the judgement of the Additional Sessions Judge, Hissar, Ex. W.X. There had allegedly been a clash between a number of workmen in the Mills and the police resulting into the arrest of a large number of workmen including the present workmen S/Shri Chaman Lal and Om Parkash whose services were terminated by the management. Some of the workmen who were released on bail were taken back on duty. The present workmen also approached the management for reinstatement but without success. Their contention is that the action of the management in not providing them work when the same relief had been granted to the other workmen was mala fide and unjustified and the management had been actuated by considerations of victimisation on account of their union activities.

It is, however, not necessary to go into the merits of the case and all the issues involved because the fate of both the references hinges upon the decision of one issue which is common in both the cases. It has vehemently been argued on behalf of the management that there were 3 settlements arrived at between the management and the workmen in 1961, 1966 and 1970, copies Exs. M.1, M.2 and M. 4, referred to above which provided a grievance procedure for the settlement of such disputes before taking report to legal proceedings as contemplated under the Industrial Disputes Act, 1947. The contention has much force and the learned representative of the workmen concerned has not been able to refute the same successfully. In all the said settlements it was specifically provided that all such disputes would first be referred to the Screening Committee and the parties concerned could take recourse to the legal proceedings only after exhausting this remedy provided in the grievance procedure laid down in the settlements. These settlements were arrived at between the management and the workmen through their unions in conciliation proceedings under section 12(3) of the Industrial Disputes Act, 1947 and as such they were bound by the same. Nothing has been brought on the record to indicate that these settlements were brought about by mis-representation, fraud, coercion or were invalid for any other reason. Admittedly, the workmen in the present references had not adopted the procedure for the settlement of their disputes with the management as mentioned in the above settlements. They had straight way taken up their disputes before the Conciliation Officer when the management had allegedly refused to take them back on duty. The settlements being of binding nature on both the parties and having not been terminated in the manner prescribed by law, it was mandatory for the workmen concerned to first put up their demands before the Screening Committee before raising the present disputes, as contemplated under section 10 of the Industrial Disputes Act, 1947. In the circumstances, I am constrained to observe that the reference of the disputes for adjudication to this court is premature, without jurisdiction and bad in law. I am supported in this view by a judgement of our own High Court in the case of M/s Atlas Cycle Industries, Sonepat and their workmen reported as 1973-I-LL-J-182. The learned representative of the workmen has not been able to satisfy me to the contrary. That disposes of issue No. 1 in the present reference No. 66 of 1972 and issue No. 2 in the connected reference No. 97 of 1972 which, for the reasons aforesaid, are decided in favour of the management and against the workmen concerned. The references shall, in the result, stand rejected as being without jurisdiction and bad in law. The award is accordingly made in both the references but without any order as to costs.

O. P. SHARMA,

Dated 12th June, 1975.

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1501, dated 16th June, 1975

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 10th July, 1975

No. 6623-4Lab-75/21289.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Goodyear India Ltd., Ballabgarh ;—

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**BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD**

Reference No. 187 of 1973

Between

**SHRI RANBIR SINGH WORKMAN AND THE MANAGEMENT OF M/S GOODYEAR
INDIA, LTD., BALIABGARH**

Present.-

Shri Sagar Ram Gupta, for the workman.

Dr. Anand Parkash and Shri K. L. Khurana, for the management.

AWARD

Shri Ranbir Singh workman concerned was in the service of M/s Goodyear India Ltd., Ballabgarh. His services were allegedly terminated by the management on 26th May, 1972, without any justification. He demanded reinstatement but without success. The matter was taken up for conciliation which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the dispute for adjudication to this Tribunal,—*vide* order No. ID/42584, dated 5th November, 1973, with the following term of reference:—

Whether the termination of services of Shri Ranbir Singh was justified and in order? If not, what relief is he entitled?

The parties were called upon to put in their respective pleadings. In his statement of claim the workman reiterated his demand for reinstatement and payment of full back wages with the allegations that he had been working with the respondent from 25th August, 1971 till 25th May, 1972 and had been performing his duty without giving any chance of complaint but the management terminated his services telegraphically on 26th May, 1972, without giving him any charge-sheet or holding any enquiry against him. It was contended that the termination of his services had been brought about by the management in an illegal and unjustified manner and in violation of principle of natural justice.

The management, on the other hand, contested the claim of the workman on several grounds. To begin with, it was pleaded that the demand had not been first raised by the management and rejected by it before the matter was taken up for conciliation and, therefore, no industrial dispute existed between the parties which could validly be referred for adjudication. It was further alleged that Shri Ranbir Singh had received payment of Rs. 544 in full and final settlement of his entire claim and, thereafter, no dispute survived and none could, in law, be raised. Still another contention was raised that the case of Shri Ranbir Singh was not covered by section 2-A of the Industrial Disputes Act, 1947.

From the pleadings of the parties the following four issues arose for determination in the case:—

- (1) Whether the demand, the subject-matter of the present reference, was first raised on the management and rejected by it before taking up the matter for conciliation? If not, with what effect? (on workman)
- (2) Whether Shri Ranbir Singh concerned workman had collected all his dues amounting to Rs. 544 in full and final settlement of all his claim against the management including the right of reinstatement or re-employment? (on management)
- (3) Whether the present case is not covered by section 2-A of the Industrial Disputes Act? If so, with what effect? (on management)
- (4) Whether the termination of service of Shri Ranbir Singh was justified and in order? If not, what relief is he entitled?

Shri Ranbir Singh workman has made his own statement besides examining Shri V. K. Sachar, Secretary of the Goodyear Employees Union. The documentary evidence relied upon by im consist of the demand notice dated 31st December, 1972. Exhibit W-1 and a telegram xhibit W-2 intimating the termination of his services. On behalf of the management Shri K. P.

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Aggarwal, the then Manager Labour of the company and his clerk Shri B. L. Gupta have come into the witness box as M. W. 1 and M. W. 2 and the receipt of payment of Rs. 544 to Shri Ranbir Singh, Exhibit M-1 has been proved.

The parties have been heard on preliminary issues Nos. 1, 2 and 3 which may be taken up separately.

Issue No. 1.

The law is well settled on the point. According to the rule of law laid down by Hon'ble the Supreme Court in the opt quoted judgement in the Sindhu Re-settlement Corporation case, the demand has first to be raised on the management and rejected by it before taking up the matter for conciliation so as to constitute an industrial dispute within the meaning of law. The management having specifically pleaded that no demand was ever raised on it by the workman concerned. The burden was upon the latter to establish this fact conclusively by bringing on record cogent and convincing evidence but on a close scrutiny of the evidence produced by him, I am constrained to observe that he has simply failed to discharge this burden.

As would be clear from the perusal of the telegram Exhibit W-2, and it is common ground between the parties, these services were terminated with effect from 25th May, 1971 and he was advised to collect his dues. The demand notice Exhibit W-1 purports to have been given on 31st December, 1972 to the management and the Conciliation Officer simultaneously (5 copies). According to the management this demand notice was never received by them direct from the workman and no postal or A. D. receipt has been produced by the workman to refute this plea. Shri K. P. Aggarwal who was the Manager Labour in the company at the relevant time and was dealing with Labour matters has sworn testimony to the fact that no demand was ever received from the workman and it was for the first time that the management came to know about it during the Conciliation Officer.

On behalf of the workman it has been argued that on receipt of the telegraphic order of the termination of his services he had met Shri Negi Shift Foreman and Shri Gill Foreman who had expressed their helplessness in the matter and advised him to see Shri K. P. Aggarwal, Manager Labour, Shri Ranbir Singh had then contacted Shri K. P. Aggarwal but he had refused to take him back on duty. We had again met Shri K. P. Aggarwal along with union Secretary Shri V. K. Sachar but had received the same reply from him. Shri K. P. Aggarwal has come into the witness box as M. W. 1 and altogether denied the above version of the workman. In cross-examination Shri K. P. Aggarwal has stated that persons seeking interviews with him had first to contact his clerk, Shri B. L. Gupta. Shri B. L. Gupta has come into the witness box as W. W. 2. He was not put in any question regarding the alleged meeting of Shri Ranbir Singh with Shri K. P. Aggarwal.

There is another aspect of the case which deserves consideration here. The termination of the services of Shri Ranbir Singh took place with effect from 28th May, 1972, but strangely enough the demand notice Exhibit W-1 was given on 31st December, 1972. No reasonable explanation is forthcoming to explain this delay of over 7 months in giving the demand notice claiming reinstatement and payment of back wages. The management has disclosed the cause of this silence on the part of the workman as would be clear from the evidence led on issue No. 2. At any rate the fact remaining that the demand the subject matter of the present reference was not first raised on the management and rejected by it so as to constitute an industrial dispute within the meaning of law as laid down in the aforesaid judgement of the Hon'ble the Supreme Court and as such no industrial dispute existed between the parties which could validly be referred for adjudication. The issue is accordingly decided against the workman and in favour of the management.

Issue No. 2.

The management has proved the voucher of payment of Rs. 544 to Shri Ranbir Singh which is Exhibit M-1 on record. Shri Ranbir Singh has admitted his signatures on this document. He is educated up to the Matric standard. There is a type written endorsement on this document above his signatures that the amount of Rs. 544 was received by him in full and final settlement of all claims and causes of action whatever kind or nature which he might have against the company or his officer. This document speaks for itself. The contention of Shri Ranbir Singh, as per his re-examination in his statement recorded in the case that he had not settled all the disputes with the management carries no weight in view of the aforesaid documentary evidence led by the management. Issue No. 2 is, therefore, decided against him and in favour of the management.

Issue No. 3.

There is not much to discuss for the management with regard to this issue. The telegraphic order dispensing with the service of Shri Ranbir Singh Exhibit W-1 on record itself shows that it was a case of termination and not of resignation or self abandonment of service by the workman himself. It is clearly covered by the provision of section 2-A of the Industrial Disputes Act, 1947. The issue is accordingly decided against the management and in favour of the workman.

In view of my above findings on issues Nos. 1 and 2 it is not necessary to go into issue No. 4 nor does it arise for consideration for the simple and obvious reason that the workman had received payment of the dues from the management, in full and final settlement of his entire claims and the demand having not been properly raised, as required by law, no industrial dispute existed between the parties which could validly be referred for adjudication. The reference, in the result, shall stand dismissed as being bad in law and the award is accordingly made holding that Shri Ranbir Singh workman concerned entitled to any relief by way of reinstatement or payment of back dues. There shall be no order as to costs.

O. P. SHARMA,

The 20th June, 1975.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1046, dated 23rd June, 1975

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

The 20th June, 1975.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 6620-4Lab-75/21291.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following order of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Modern Woollen Mills, Kundli (Sonepat).

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 32 of 1974

between

THE MANAGEMENT OF M/S MODERN WOOLLEN MILLS, KUNDLI(SONEPAT) AND ITS
WORKMEN

ORDER

In the above noted reference the workmen concerned did not appear in person or through authorised representative. The management was represented by the Manager Shri Harbans Lal Mehra and after recording his statement an *ex parte* award was made on 9th December, 1974 which has been published in the State Government Gazette, Part I. No. 4, dated 28th January, 1975 at page 140. By inadvertence the name of Shri S. K. Gulati has been mentioned as a representative of the management in the case, because he happened to be present in the Court on that day in some other case pending before the Labour Court. No matter of authority by the management in the present case in his name exists on record.

I, therefore, in exercise of the powers conferred by rule 28 of the Industrial Disputes (Punjab), Rules, 1958 direct that necessary correction be made in the award by deleting the name of Shri S. K. Gulati as the representative of the management.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

No. 106,3 dated Faridabad, the 24th June, 1975.

Four copies of the above orders are forwarded to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, for necessary publication in the State Government Gazette.

O. P. SHARMA,

Dated the 24th June, 1975.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.